

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 DAVID B. DURAN,
11 Plaintiff,
12
13 v.
14 OMAR MANDUJO, et al.,
15 Defendants.
16

Case No. 15-cv-2745 DMS (WVG)

**ORDER (1) ADOPTING
MAGISTRATE JUDGE'S
REPORT AND
RECOMMENDATION AND (2)
GRANTING MOTION TO
DISMISS FOR FAILURE TO
STATE A CLAIM**

[ECF NOS. 94, 102]

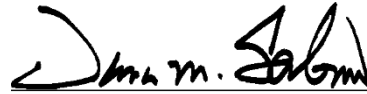
17
18 On December 7, 2015, Plaintiff David B. Duran, a state prisoner proceeding
19 *pro se* and *in forma pauperis*, filed a civil rights Complaint pursuant to 42 U.S.C. §
20 1983. On May 19, 2017, Plaintiff filed his Fourth Amended Complaint. On June 2,
21 2017, Defendants Omar Mandujano, Alfredo Hernandez, Luis Hernandez, and John
22 Seaman filed a Motion to Dismiss for Failure to State a Claim. On August 22, 2017,
23 Magistrate Judge William V. Gallo issued a Report and Recommendation (“R&R”),
24 recommending that the Court grant the motion. Plaintiff filed objections to the R&R.
25 Defendants did not file a reply.

26 This Court, having reviewed *de novo* the Magistrate Judge’s R&R and the
27 objections thereto, adopts the Magistrate Judge’s recommendation in full and
28 **GRANTS** the Motion to Dismiss for Failure to State a Claim. The Court finds no

1 basis for a certificate of appealability. The Clerk of Court shall enter judgment
2 accordingly.

3 **IT IS SO ORDERED.**

4 Dated: October 11, 2017

A handwritten signature in black ink, appearing to read "Dana M. Sabraw", is written over a horizontal line.

Hon. Dana M. Sabraw
United States District Judge